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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/134,405	08/14/98	HAM	Y 8733D-6833

EXAMINER

MMC2/0522

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ART UNIT	PAPER NUMBER
2871	

DATE MAILED: 05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/134,405	HAM
Examiner	**Group Art Unit**
T. DUONG	2871

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Peri d for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☒ Responsive to communication(s) filed on 5/7/01.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-28 is/are pending in the application.

Of the above claim(s)_____ is/are withdrawn from consideration.

☐ Claim(s)_____ is/are allowed.

☒ Claim(s) 1-28 is/are rejected.

☐ Claim(s)_____ is/are objected to.

☐ Claim(s)_____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on_____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on_____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number)_____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received:_____.

Attachm nt(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s)._____

☐ Interview Summary, PTO-413

☐ Notice of References Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other_____

Offic Action Summary

The request filed on 5/7/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/134,405 is acceptable and a CPA has been established. An action on the CPA follows.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5, 8, 9, 12-14, 16, 19, 20 and 23- 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Prior Art Figs. 1A-B in view of Ohe et al'271 .

Applicant's Prior Art Figs. 1A-B disclose a LCD and a method of making of the LCD similar to those of the instant claims except for the d.Δn being in the range of 0.29-0.36μm (specification, pages 2-5). However, Ohe et al disclose that it was known to employ d.Δn having a value of 0.30μm for attaining a higher transmission index and a whiteness of the display emission light (col. 6, lines 50-55). Thus, it would have been obvious to a person of ordinary skill in the art to employ d.Δn having a value of 0.30μm (which is within in the recited range 0.29-0.36μm) in Applicant's Prior Art Figs. 1A-B for attaining a higher transmission index and a whiteness of the display emission light , as disclosed by Ohe et al.

Claims 4, 6, 7, 10, 11,15 17, 18, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Prior Art Figs. 1A-B and Ohe et al.'271 as applied to claims 1-3, 5,

8, 9, 12-14, 16, 19, 20 and 23-28 above, and further in view of Yanagawa et al'160 and Kang et al.'669 of record.

These claims recite that the passivation layer includes one of SiNx and SiOx , and one of the alignment layers comprises a photosensitive material being selected from the group consisting of polyvinylcinnamate, polysiloxane cinnamate and cellulosecinnamate. However, these materials are well-known in the art for the same intended purposes as those of the instant claims, as evidenced by Yanagawa et al. (PSV in Fig. 15 H) and Kang et al. (cols. 1 and 2).

Applicant's arguments filed 4/5/01 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, nowhere in *Graham v. John Deere Co.* does it require that one of the references in the combination of the references should be a prior art under 35 U.S.C. 102, as implied in Applicant's remarks. It is noted that if the Ohe et al reference discloses the common line and the data bus lines having a crossing relationship, the Ohe reference would be a 102(e) prior art.

Any inquiry concerning this communication should be directed to Tai Duong at telephone number (703) 308-4873.

TD
5/21/01

William L. Sikes
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